

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

Square 769 LLC : Case No.

: 03-12C/03-13C

:

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Thursday,
December 7, 2006

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 03-12C/03-13C by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
STEVE COCHRAN

The transcript constitutes the
minutes from the Public Hearing held on
December 8, 2006.

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P-R-O-C-E-E-D-I-N-G-S

6:45 p.m.

CHAIRPERSON MITTEN: Good evening ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, December 7, 2006.

My name is Carol Mitten, and joining me this evening are Vice-Chairman Anthony Hood, and Commissioners Mike Turnbull, John Parsons, and Greg Jeffries.

The subject of this evening's hearing is Zoning Commission Case No. 03-12C/03-12C, and this is a request by Square 769 LLC and the DCHA for approval of phase two of a planned unit development for property located in the block bounded by 2nd, 3rd, L, and M Streets S.E. And it's known as lots 18, 20, and 21, in Square 449.

Notice of today's hearing was published in *The D.C. Register* on September 22, 2006, and copies of that hearing announcement are available to you. And

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1 they're in the wall bin by the door.

2 This hearing will be conducted in
3 accordance with the provisions of 11 DCMR
4 Section 3022, and the order of procedure will
5 be as follows. We'll take up any preliminary
6 matters. Then we'll have the presentation of
7 the Applicant's case, a report by the Office
8 of Planning, reports of any other Government
9 agencies, a report by the affected Advisory
10 Neighborhood Commission (in this case it's
11 6D), organizations and persons in support, and
12 organizations and persons in opposition.

13 All persons appearing before the
14 Commission are to fill out two witness cards
15 and the cards look like this. Upon coming
16 forward to speak to the Commission, we ask
17 that you give both cards to the reporter who's
18 sitting to our right.

19 Please be advised that the
20 proceeding's being recorded by the court
21 reporter and is also being webcast live.
22 Therefore, we ask you to refrain from making
23 any disruptive noises in the hearing room.

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1 When presenting information to the Commission,
2 please turn on and speak into the microphone,
3 first stating your name and home address.
4 When you're finished speaking, please turn the
5 microphone off because they tend to pick up
6 background noise.

7 The decision of the Commission in
8 this case must be based exclusively on the
9 public record. And to avoid any appearance to
10 the contrary, the Commission requests that
11 person present not engage the members of the
12 Commission in conversation during a recess or
13 at any other time. And Ms. Schellin will be
14 available throughout the hearing to answer any
15 procedural questions that you might have.

16 I'd ask you to turn off all
17 beepers and cell phones at this time, so as
18 not to disrupt the hearing. And I'd ask that
19 anyone who's planning on testifying this
20 evening, if you would stand and raise your
21 right hand and direct your attention to Ms.
22 Schellin, and she will administer the oath.

23 (Whereupon, the witnesses were

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1 sworn in by Ms. Schellin.)

2 CHAIRPERSON MITTEN: Did we have
3 any preliminary matters, Ms. Schellin?

4 MS. SCHELLIN: No.

5 CHAIRPERSON MITTEN: Okay. Mr.
6 Quinn, any preliminary matters?

7 MR. QUINN: No.

8 CHAIRPERSON MITTEN: Okay. Very
9 good, then. Why don't you go ahead and begin?
10 If you would turn on your microphone, that
11 would be very helpful.

12 MR. QUINN: Thank you. My name
13 is Whayne Quinn with Holland & Knight,
14 representing Square 769 LLC. As you're aware
15 from our pleadings, including our pre-hearing
16 statement and also the Office of Planning
17 report, this is a second stage PUD to
18 implement development of Square -- part of
19 Square 769, as approved by the -- by the
20 Commission in the stage one approval of the
21 Capper/Carolisburg Hope Six project in the
22 PUD.

23 This application, as is indicated

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1 in the record, complies in all respects with
2 the criteria approved in the preliminary
3 application and we would like, at this point,
4 simply to complete the record by filing
5 exhibits that have been requested by Office of
6 Planning. And I think they've been handed out
7 to you.

8 Just to describe them briefly,
9 they're copies of rendered landscape plans,
10 fully coordinated and approved by the
11 Department of Transportation, DDOT, and AWC,
12 the Anacostia Waterfront Corporation. And
13 there are two letters that show -- that go
14 with that, that indicate the approvals of the
15 landscape plan; one from DDOT and one from
16 AWC.

17 Secondly, we filed also as
18 requested by the Office of Planning a detailed
19 illustrative roof plan showing the area of
20 proposed mechanical equipment. And I think
21 Mr. Sher, did we file your outline of your
22 testimony, which would be the urban planner's
23 testimony and it goes into detail about some

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1 of the compliance tests of the PUD.

2 This final stage PUD is essential
3 to the overall Capper/Carolzburg plan and the
4 project and we're very pleased that we're
5 having -- being here to -- to implement that.
6 And we're prepared to submit this case on the
7 record, at this point, and to answer any
8 questions, should there be any.

9 CHAIRPERSON MITTEN: Thank you. I
10 think there are a few. Questions from the
11 Commission? Let me just ask --

12 MR. QUINN: What -- do you want us
13 to -- who -- who is available? Should I do
14 that --

15 CHAIRPERSON MITTEN: No. That's
16 fine. I'm sure you'll orchestrate it just
17 fine when the time comes.

18 MR. QUINN: -- for the questions
19 today? Okay.

20 CHAIRPERSON MITTEN: What's the
21 nature of the ANC's opposition?

22 MR. QUINN: The ANC essentially
23 repeated its prior opposition to the PUD. I

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1 don't know of any other additional points.

2 CHAIRPERSON MITTEN: Okay. Okay.

3 Anybody have questions?

4 COMMISSIONER JEFFRIES: I'll go.

5 CHAIRPERSON MITTEN: Mr. Jeffries?

6 COMMISSIONER JEFFRIES: Actually,
7 perhaps the architect should come to the
8 microphone. Thank you.

9 CHAIRPERSON MITTEN: If you'd just
10 identify yourself for the record.

11 MR. HICKOK: Yes. I'm Mike Hickok
12 of Hickok Cole Architects.

13 COMMISSIONER JEFFRIES: Thank you,
14 Mr. Hickok. There's a couple of questions I
15 have. One is, and perhaps I missed it, but I
16 was trying to get a better delineation of the
17 ground floor, right at the Canal Park. I
18 mean, I see the trees in the rendering, but is
19 there another drawing that gives greater
20 detail, like a rendering of some sort, that I
21 got a clearer sense of exactly what's
22 happening at the pedestrian level there?

23 I see it's sort of cantilevered.

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1 There's a cantilevered portion, but I'm not,
2 unless I missed something --

3 MR. HICKOK: Are you talking about
4 at grade?

5 COMMISSIONER JEFFRIES: Excuse me?

6 MR. HICKOK: At the sidewalk
7 level?

8 COMMISSIONER JEFFRIES: Yes.

9 MR. HICKOK: Are you looking at
10 L1.2a, the landscape plan?

11 COMMISSIONER JEFFRIES: Let's see
12 this. Yes. But more of a perspective -- a
13 rendering. Just to show exactly what --

14 MR. HICKOK: Well, the other --
15 the other rendering that's available is that
16 one that's in the -- on the cover of the
17 packet.

18 COMMISSIONER JEFFRIES: Okay. So--

19 MR. HICKOK: I can describe it to
20 you, if you'd like.

21 COMMISSIONER JEFFRIES: Okay. I
22 probably would like to see exactly what the
23 treatment is at the ground level, without the

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1 trees there. Just -- or, if you could somehow
2 -- it would just be a rendering of some sort.

3 MR. HICKOK: Sure.

4 COMMISSIONER JEFFRIES: That would
5 be very helpful. Because obviously it's a
6 very critical part, I think, to this building.
7 Secondly, I'm a little concerned about the
8 corner treatment of this building. And
9 particularly, again, at the ground floor. It
10 seems just to just fall, the glass, right to
11 the sidewalk. And somehow it just looks a
12 little undressed. And I'm just trying to get
13 a better understanding as to, you know, your
14 motivation here.

15 MR. HICKOK: Well, from our
16 perspective, that's the -- let's call it the
17 100 percent corner. That's the corner which
18 is most exposed to the park. The retailer who
19 will occupy -- who would likely -- who will
20 likely occupy that space has the greatest
21 exposure. We're also -- this building has
22 been designed in coordination with the Federal
23 Gateway Building on the other side of the

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1 park, which is another project that we
2 designed. So --

3 COMMISSIONER JEFFRIES: Is that
4 the building where AWC is currently housed?

5 MR. HICKOK: I don't know. Is it?

6 COMMISSIONER JEFFRIES: Oh, it is.
7 Okay. Thank you.

8 MR. HICKOK: So, as we look at
9 that corner, it's -- it's primarily that.
10 It's a curtain wall building which comes down
11 to storefront at that point. And the
12 storefront's articulated at two -- two floors,
13 because we want a scale there which is
14 appropriate to sort of the scale of the park.
15 But it's -- it's left open in the manner it is
16 in order to give it the best sort of retail
17 frontage it can.

18 I think that, if you look at --
19 you have -- you have this rendering, also.

20 COMMISSIONER JEFFRIES: What page
21 is that?

22 MR. HICKOK: This is A2.01b. Now
23 that will show it in comparison to the Federal

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1 Gateway Building on the other side of the
2 park. And there are certain similarities.
3 It's not identical, by any means. But there's
4 certain similarities between these -- between
5 these two that bookend and sort of form the
6 entry to the park off of M Street.

7 COMMISSIONER JEFFRIES: Yes. I
8 would say that the mirror building does have
9 a bit more articulation at the corner than
10 what's being presented here, I mean, from what
11 I see here. And I still think you could still
12 give the level of visibility to a retail
13 tenant that's at the corner, while still just
14 giving some greater articulation at the
15 corner.

16 And I guess the other issue is
17 that you have this vertical element that's to
18 the right, and I see, you know, what you're
19 doing again in terms of mimicking what's
20 across the park. But it just seems to draw
21 attention to the fact that the corner of the
22 building is just somewhat understated.

23 So, my only comment here for this

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1 is I really want to get a better understanding
2 of the entire elevation at the ground floor;
3 what that treatment is looking like and how it
4 really relates to the -- or what the feel is
5 like for Canal Park, beyond just a floor plan
6 or site plan, but a drawing that illustrates
7 exactly sort of what the experience would be
8 if, you know, I'm a pedestrian walking
9 through.

10 MR. HICKOK: I think the best
11 drawing for you to look at then would probably
12 be A2.04. That's the Canal Park elevation.

13 COMMISSIONER JEFFRIES: Yes. I
14 guess I'm looking for perspective.

15 MR. HICKOK: Well, we have within
16 the packet. And we -- we have what has been
17 submitted in the packet. We don't have other
18 drawings to show you tonight.

19 COMMISSIONER JEFFRIES: And I
20 guess what I'm saying is that --

21 MR. HICKOK: But we can follow up.

22 COMMISSIONER JEFFRIES: -- is as
23 follow-up.

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1 MR. HICKOK: Oh. Sure. Of
2 course.

3 COMMISSIONER JEFFRIES: Yes. Yes.
4 Yes.

5 MR. HICKOK: Happy to do that.
6 Happy to do that.

7 COMMISSIONER JEFFRIES: Okay. And
8 one more thing. Also, the horizontality of
9 your curtain wall, what was the driver behind
10 just the long horizontal lines there?

11 MR. HICKOK: Well, the curtain
12 wall is -- we're -- we want it to read from
13 corner to corner as a -- as a box, around
14 which the massing of the building has been --
15 has been developed. So the more solid parts
16 are outside. The curtain wall forms a box
17 behind that.

18 Again, if you look at A2.04, it's
19 a good example. And in order for that to read
20 more clearly at the upper floors, we want to
21 see that line as continuous as we can make it.
22 So it was more horizontal than vertical. It's
23 still a grid. I don't think it's overly --

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1 I don't think it's overly horizontal.

2 COMMISSIONER JEFFRIES: Yes. I
3 think what happens is that, if you look at it
4 from some of your elevations like A2.04, it
5 doesn't look as pronounced as your perspective
6 does, and that's probably what's throwing me
7 off.

8 MR. HICKOK: Yes. Yes. Yes.

9 COMMISSIONER JEFFRIES: Again, I
10 might have brought this up on a prior office
11 PUD, but I'm always struggling around these
12 office PUDs on what superior design is and
13 what is the delta between what's a matter of
14 right office design and a PUD. I mean, I
15 don't know what this building would look like
16 if it were not coming before this body.

17 And my suspicion is beyond a green
18 roof, I think this building would probably
19 look somewhat like it's looking. That's an
20 observation. But, at this point, I just would
21 again like for you to just revisit this ground
22 floor and just take another look at the corner
23 condition at the pedestrian level.

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1 MR. HICKOK: Sure. We're happy to
2 do that.

3 COMMISSIONER JEFFRIES: Thank you.

4 CHAIRPERSON MITTEN: Thank you,
5 Mr. Jeffries. Anyone else? Mr. Parsons?

6 COMMISSIONER PARSONS: Just so
7 people don't feel Mr. Jeffries is hanging out
8 here alone, I would concur with his remarks.
9 Okay? We do need a restudy of this edge --
10 the corner.

11 CHAIRPERSON MITTEN: Thank you,
12 Mr. Parsons. Anyone else? Mr. Hood?

13 VICE-CHAIRPERSON HOOD: Yes, Madam
14 Chair. I'm looking at this plan. I guess
15 maybe the architect, Mr. Hickok or whomever --
16 okay, Mr. Hickok -- I'm looking at A2.01a, in
17 which we received another submittal on that
18 page tonight. And I think you all talked
19 about the curtain wall. But the little hang-
20 over -- I'm not sure what the proper name is
21 or the formal name is -- but what is the
22 purpose of that?

23 MR. HICKOK: Which overhang?

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1 VICE-CHAIRPERSON HOOD: The one at
2 the top. If you look on the roof --

3 MR. HICKOK: At -- at the -- at
4 the roof line?

5 VICE-CHAIRPERSON HOOD: Right. At
6 the roof line. If you look at the roof,
7 you've got a little hang over --

8 MR. HICKOK: Right.

9 VICE-CHAIRPERSON HOOD: -- where,
10 when it rains, I can stand up under there. At
11 least that's the way it looks.

12 MR. HICKOK: You can't -- you --
13 you could stand up under it. There is roof
14 terrace on that side. This -- this is the
15 side that faces the park.

16 VICE-CHAIRPERSON HOOD: Okay.

17 MR. HICKOK: And, as you look up
18 from the part, we want to be able to provide
19 some cover; some sense of enclosure for people
20 who are using the roof terrace. At the same
21 time, when you see it from the park side, we
22 didn't want it to be too predominant.

23 We made it thin. It's a thinner

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1 line when viewed from the park. It has
2 perforations so it's not quite as solid. It's
3 more trellis like. And it was for -- it was
4 an effort to make the roof terrace itself a
5 little more friendly, but also to provide
6 something that breaks that roof line a little
7 bit when you view it from the park side.

8 VICE-CHAIRPERSON HOOD: Okay. And
9 what is it? Is it a rail or something going
10 around the side there? What's keeping me
11 from --

12 MR. HICKOK: Yes. That's a --
13 there -- there's a -- you can see that -- you
14 can see that drawn there, as well. There's a
15 standard 42 inch code required rail.

16 VICE-CHAIRPERSON HOOD: Oh. Okay.
17 All right. Thank you. The other thing is I'm
18 looking at A2.03, and I know this is probably
19 just a color copy issue. And it appears that
20 in the other submittal, the garage doors or
21 the entrance doors were like a -- from what we
22 have here, they're like a purple. Is that
23 just a printing issue?

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1 MR. HICKOK: I think that's a --
2 yes. I think that's a color copy issue.
3 We're not proposing purple doors.

4 VICE-CHAIRPERSON HOOD: Color copy
5 issue. Okay. Okay. Because that -- I was
6 about to say -- okay. All right.

7 And the entrance? Where is the
8 garage entrance? It's on 2nd Street, right?

9 MR. HICKOK: The garage entrance
10 is off of the service alley, I believe; the
11 service drive at the rear.

12 VICE-CHAIRPERSON HOOD: It's in
13 the back?

14 MR. HICKOK: If you look at that
15 same A2.03.

16 VICE-CHAIRPERSON HOOD: A2.03?

17 MR. HICKOK: There's a key plan at
18 the bottom right. That indicates which
19 elevation that is and that's that service
20 alley elevation.

21 VICE-CHAIRPERSON HOOD: Which page
22 are we looking at? Okay. Okay.

23 MR. HICKOK: And here's the key

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1 plan. And it's that -- this is the alley, the
2 service drive elevation.

3 VICE-CHAIRPERSON HOOD: Okay.
4 Thank you. Mr. Quinn, on the -- I noticed in
5 the submittal that, from the Department of
6 Employment Services, Ms. Gilbert, I believe is
7 her name, on the sheet that had -- you already
8 had a name on there. And it looks like that
9 was the Applicant. Even though there's Social
10 Security number on there, but then it had N/A.
11 Can you tell me why that's written down like
12 that? And I'm sure it's a very minor issue.
13 I'm just curious.

14 MR. QUINN: No. I don't know
15 right now. I'd have to find out. This was in
16 the --

17 VICE-CHAIRPERSON HOOD: It was in
18 the agreement. The agreement looked like it
19 was signed. But there was a name, FENELL, I
20 think it was. And it had N/A. Let me see if
21 I can find it. And I was just curious because
22 I know that was being proffered and I was
23 wondering --

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1 CHAIRPERSON MITTEN: This is in
2 the employment plan?

3 VICE-CHAIRPERSON HOOD: Right.

4 CHAIRPERSON MITTEN: Which is page
5 7 of attachment 5 to your November 17th
6 submission.

7 VICE-CHAIRPERSON HOOD: They
8 obviously are sending us some -- telling
9 somebody something.

10 THE WITNESS: Oh, that's -- I
11 believe that would be part of what is filled
12 out as we proceed with the implementation of
13 the plan. In other words, you have to have --
14 you submit a whole study, basically, of
15 information. And that goes in before
16 everything is completed. And that's one of
17 the requirements.

18 VICE-CHAIRPERSON HOOD: So that's
19 still being proffered. That's still --

20 MR. QUINN: It's still being
21 processed as part of the terms of the
22 agreement.

23 VICE-CHAIRPERSON HOOD: Okay.

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1 MR. QUINN: In other words, when
2 it says N/A, that really -- I'm not sure it
3 should say N/A. It should say to be -- to be
4 filled out and to be filed with it as part of
5 the deal.

6 VICE-CHAIRPERSON HOOD: And let me
7 ask you, Mr. Quinn, for the record, is this
8 Applicant just proffering this or are they
9 really going to try to do this? Do they have
10 a good track record?

11 MR. QUINN: Why don't I call Mr.
12 Fenell to ask him.

13 VICE-CHAIRPERSON HOOD: Well, I
14 was trying to save us some time. But you can
15 call him.

16 MR. QUINN: Well, I'll say the
17 answer's yes.

18 VICE-CHAIRPERSON HOOD: Okay. I
19 want to hear from him now. You're right. Let
20 me hear from him.

21 MR. FENELL: Brad Fenell with
22 William C. Smith and Company, on behalf of the
23 Applicant's for 769 LLC. And the answer is

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1 absolutely yes.

2 VICE-CHAIRPERSON HOOD: Okay.
3 Have you done PUDs -- and forgive me for not
4 knowing -- but have you done PUDs in this city
5 before?

6 MR. FENELL: We have done a 210-
7 unit town home community in Far Southeast
8 through a PUD.

9 VICE-CHAIRPERSON HOOD: Did you
10 offer --

11 MR. FENELL: We did.

12 MR. GRANT: You did?

13 MR. FENELL: We did.

14 VICE-CHAIRPERSON HOOD: What was
15 your rate? Or what was your success with
16 that?

17 MR. FENELL: It was back in '99,
18 so I'm -- I -- I -- I don't know that I could
19 quote the success rate. I know that we're
20 very active in the city. We have five jobs
21 that are being -- under construction,
22 currently. All of them have LSTB requirement,
23 where we are at or over 35 percent. We've

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1 worked with minority contractors from within
2 the Ward 8 community, and we have a strong
3 relationship with those contractors.

4 VICE-CHAIRPERSON HOOD: Okay. All
5 right. Thank you. Thank you, Mr. Quinn.
6 Thank you, Madam Chair.

7 CHAIRPERSON MITTEN: Just before
8 you go away, I just want to ask an explicit
9 question, since Mr. Hood didn't ask it
10 explicitly. But, in the area on the
11 employment plan where it says N/A, that's the
12 area that's new job creation projections. Do
13 you project that you will create any new jobs
14 through this project?

15 MR. FENELL: Yes.

16 CHAIRPERSON MITTEN: Okay. So
17 then why does it say N/A?

18 MR. FENELL: I -- I -- I can't
19 answer why it says N/A. I think it should be
20 -- it's not applicable at this time. Or
21 unanswerable at this time. And I think that,
22 when the form was filled out, we just didn't
23 have the information.

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1 CHAIRPERSON MITTEN: It's actually
2 kind of interesting, Mr. Hood, that you asked
3 it. Because at what point will this be
4 revisited, if this is being submitted -- you
5 know, this is being proffered and submitted as
6 it is, when will it be revisited? That's the
7 question for me.

8 VICE-CHAIRPERSON HOOD: I was
9 thinking, at least for me, it would be before
10 final action. I would -- that would resurface
11 and it'd have to be more definite. Because
12 that N/A bothers me.

13 CHAIRPERSON MITTEN: Is that
14 something that, before final actions, that
15 that can be articulated? Or, I mean, really
16 --

17 MR. QUINN: Really, I think,
18 legally if you look at the -- in order to meet
19 the terms of it, you have to fill out -- you
20 have to provide that information. But if
21 you'd like for us to try to file that before
22 the final action, we could do that.

23 CHAIRPERSON MITTEN: Would you

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1 show me where it says that you would have to
2 file that before -- or in order to be in
3 compliance?

4 MR. FENELL: In order to meet the
5 requirements, like the general terms, employer
6 shall require all contractors and
7 subcontractors, each one a recruitment. In
8 order for there to be compliance, there has to
9 be information to assure compliance. And that
10 information has to be filed as part of
11 determining compliance.

12 CHAIRPERSON MITTEN: I guess what
13 the document, as it's been submitted, if the
14 -- the First Source Agreement has to do with
15 new hires. So, if the document says N/A, not
16 applicable, that's suggests to me, if I'm just
17 looking at the document as it sits there, that
18 I won't have any new hires. It doesn't say
19 I'll come back later and tell you about that
20 so that you can follow up with me to make sure
21 I'm in compliance. So that's the part that is
22 a little confusing.

23 MR. FENELL: Right. So why don't

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1 we try to get something for the record that --
2 and it -- basically, you -- it's impossible
3 early on, without knowing how the construction
4 is going to proceed, to accurately predict
5 that. You can't --

6 CHAIRPERSON MITTEN: And I can
7 understand that point.

8 MR. FENELL: -- you can't file
9 that information.

10 CHAIRPERSON MITTEN: But there
11 just doesn't seem to be a --

12 MR. FENELL: The N/A bothers you,
13 right?

14 CHAIRPERSON MITTEN: Yes, it does.

15 MR. FENELL: Okay.

16 CHAIRPERSON MITTEN: Since Mr.
17 Hood asked about it, it does bother me.

18 MR. FENELL: All right. We'll --
19 we'll take care of that.

20 CHAIRPERSON MITTEN: It seems to
21 send a different message than is true. It's
22 not --

23 MR. FENELL: Yes. I understand.

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1 CHAIRPERSON MITTEN: You
2 understand my point?

3 MR. FENELL: Yes.

4 CHAIRPERSON MITTEN: Okay. Did
5 you have anything else, Mr. Hood? Okay. Did
6 you have anything, Mr. Turnbull?

7 COMMISSIONER TURNBULL: Yes.
8 Thank you, Madam Chair. I guess I was just --
9 in going back to the comments of Commissioner
10 Parsons and Commissioner Jeffries. And I
11 think one of the things they're struggling
12 with is, if you look at the sheet -- the title
13 sheet of your plate of submission, which has
14 a 16 on the corner, where it sort of shows the
15 corner of the building in perspective.

16 And I think -- and I guess what
17 may be this tentative or what makes people --
18 let me divert just a little bit. But I think
19 one of the most difficult uses to design well
20 is a pharmacy. I mean, a drugstore to me
21 always seems like it's an awkward building
22 because you need it. It's a wonderful
23 profession. But the stores always seem funny

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1 to go into. You just never feel comfortable.
2 I've never felt comfortable going into a
3 pharmacy.

4 And there is one pharmacy now that
5 has these wonderful bi-folding doors that open
6 up electronically that feel like they're going
7 to eat you as you go into it. But they always
8 have windows and you could never use windows
9 because they don't want windows because of
10 retail. So you have the high windows. And if
11 they do try to take a building that has
12 windows and make it into something, it just
13 never looks right.

14 And I have a fear of a pharmacy
15 going in here first off, even though it says
16 restaurant. And I feel this very tentative
17 view of this corner.

18 And, if I look across in your
19 other A2.01b, the verticals accentuate that
20 corner a bit more so that the very light
21 verticals on this one. And I think right
22 now if I look at it, it looks like an empty
23 storefront in the perspective. And I think

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1 that there's this feeling that it hasn't been
2 quite solved; that there is this tenuous
3 aspect of the corner on what is supposed to be
4 -- and I know you want it.

5 It looks like the entrance is
6 going to be down further and that this is
7 simply a corner element and it's going to be
8 used, But I think maybe what the -- and I'm
9 trying to read through some of their comments,
10 but I think they see this as a tenuous
11 solution as it meets that corner; that there's
12 a sense that it's hitting the ground, but it's
13 not as expressive as it is across the street.

14 And I think it feels that the
15 design then kind of like comes to an end
16 rather abruptly and really doesn't express
17 what you're trying to do with the Canal Park.
18 So I think there's a feeling that the solution
19 just is ending uncomfortably. And that
20 there's no way to really -- it isn't defined
21 enough as it meets the other side of the
22 street.

23 And maybe they want to comment on

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1 what I'm saying. But I just think that
2 there's a feeling that it's a design solution
3 that hasn't gone far enough to do what you
4 want it to do to be a gateway. And I think
5 it's not as expressive as what you've done on
6 the other side of the street. And I think
7 that there's just a tenuous aspect. I think
8 that, with some of the comments that I'm
9 reading from.

10 COMMISSIONER JEFFRIES: And if I
11 can, Commissioner Turnbull, I mean, there's
12 park. I mean this is not an infield design.
13 I mean, it's not going to sort of fit
14 comfortably into a series of buildings. It
15 does stand out and people will see this.

16 I mean, you know, you've got a
17 park. It's a wonderful amenity. And I just
18 that that elevation, or at least particularly
19 the ground floor should try to do perhaps a
20 little bit more, particularly at the corner.

21 CHAIRPERSON MITTEN: I just want
22 to clarify something. 1100 New Jersey was not
23 a PUD. Is that correct?

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1 MR. QUINN: I think that's
2 correct.

3 CHAIRPERSON MITTEN: Okay. So --

4 MR. QUINN: But it does have a
5 pharmacy in it, however.

6 CHAIRPERSON MITTEN: Among the
7 things I'm hearing, I think, is that using --
8 on the one hand, I think there's some sense
9 that maybe the corner facing the park on 1100
10 New Jersey is a little more appealing to the
11 Commission, as opposed to what's being done
12 here.

13 But the other aspect of it is,
14 which is what Commissioner Jeffries was
15 struggling with, I think, which is, to the
16 extent that you're pairing these two
17 buildings, how is it that if you're pairing
18 something that's supposed to be part of a PUD
19 and is supposed to exhibit superior
20 architecture, but you're pairing it with a
21 building that was not part of a PUD, there
22 should be some kind of distinction there, and
23 that's not being -- that we're not seeing.

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1 And so.

2 MR. QUINN: Could I just observe
3 something from a legal standpoint?

4 CHAIRPERSON MITTEN: Sure.

5 MR. QUINN: Namely, that a
6 superior building can be a superior building
7 matter of right, just as it can be a superior
8 building PUD, A lot depends on -- the
9 language is atypical in your regulations.

10 So that there are many buildings -
11 - I can give you one right now, 1900 K Street,
12 designed by Cesar Pelli.

13 CHAIRPERSON MITTEN: Yes.

14 MR. QUINN: That building is, in
15 my view, lawyers can say these things without
16 fear of -- well, we always can be, you know,
17 criticized, but that's a -- that's a superior
18 building.

19 CHAIRPERSON MITTEN: Right.

20 MR. QUINN: It's a matter of
21 right.

22 CHAIRPERSON MITTEN: Right. And
23 I--

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1 MR. QUINN: But there are many --
2 I'm just saying that the word superior can be
3 in many context. And here I think the concept
4 is under PUD the comparison to a typical that
5 someone could walk in and build and what would
6 normally be there. Not something that's
7 necessarily a superior building.

8 So I think that sometimes we get
9 lost in that comparison.

10 CHAIRPERSON MITTEN: I agree. And
11 it's also how we're left wanting, often. But
12 I think that the Commission has seen enough
13 buildings that it's -- I was trying to give a
14 specific example. But I think there's also
15 the sense that this general sense that we
16 haven't quite gotten to where we're being
17 convinced.

18 MR. QUINN: I think we're hearing
19 that loud and clear.

20 CHAIRPERSON MITTEN: Okay? Okay.
21 Any other questions? Mr. Parsons?

22 COMMISSIONER PARSONS: I wanted to
23 go to L1.2a, which is a planting plan, but

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1 it's also something we received in color here
2 tonight on the table. And I'm having trouble
3 understanding what's happening on 2nd street.

4 To use tonight's exhibit will help
5 me because the sidewalk is in blue. And then
6 there's an area between the sidewalk and the
7 building which is white. Have you all got
8 that? There we are.

9 Then I compare that with the
10 perspective view which is on the board over to
11 your right, on the cover of the document,
12 which shows umbrellas along the street. And
13 I'm trying to understand what is it that's
14 going on along the edge of the building.

15 We've got a transformer vault
16 which is enormous along that frontage. Doors
17 spilling out onto this space, and I'm
18 wondering is this a place where outside dining
19 will occur or what?

20 MR. McCLURE: Okay. My name is
21 Craig McClure. I'm with Parker Rodriguez, the
22 landscape architects for this project.

23 CHAIRPERSON MITTEN: You turned

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1 your mike off.

2 MR. McCLURE: Perhaps I'll put up
3 the other drawings so that the colors are more
4 realistic. What is happening on 2nd street is
5 that you -- you have a bit of additional space
6 in the public parking area. And, in that
7 space, is where there's special paving. And,
8 along that facade, there are doors in the
9 building. And, with regard to the use in that
10 space, I would have to ask Mike Hickok to
11 speak to -- to what the potential future uses
12 are for that particular space.

13 COMMISSIONER PARSONS: But did the
14 artist take some artistic license? In the
15 perspective, red umbrellas are shown along
16 here. And it's hard to understand where these
17 people are sitting.

18 I mean, is the intent that the
19 area where the transformer evolved and along
20 the facade of the building, there would be
21 tables and chairs?

22 MR. HICKOK: If -- If -- there's
23 certainly room for tables and chairs. Whether

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1 the tenant -- the retail tenant that rents the
2 space has a use that's appropriate to tables
3 and chairs, we obviously don't know at this
4 time.

5 But the space is there. And if
6 they are -- if it were a restaurant, if it
7 were a cafe, if it were someplace where tables
8 and chairs would be appropriate, then I think
9 we could expect to see them.

10 COMMISSIONER PARSONS: So then
11 what kind of a surface do you imagine this
12 transformer vault would have? I mean, is that
13 conducive to people sitting on it? It's
14 enormous.

15 MR. McCLURE: What you have here--

16 COMMISSIONER PARSONS: They aren't
17 going to be sitting on tables on top of it?

18 MR. McCLURE: That's actually a
19 graded vault. The top two -- the northern
20 most portions of it and the one below, in the
21 sidewalk space, is paved in the pan of the
22 transformer vault cover.

23 COMMISSIONER PARSONS: So that

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1 it's not a vent that we're used to in the city
2 streets with air passing through a steel grid.
3 It's a paved surface? Is that what you mean?

4 MR. McCCLURE: It is paved on the--
5 on the southern most portion of it. It's a --
6 it's a three portioned --

7 COMMISSIONER PARSONS: Yes.

8 MR. McCCLURE: We're kind of
9 getting beyond my area of expertise with how
10 transformers work.

11 COMMISSIONER PARSONS: But does
12 the transformer have something to do with the
13 building, or is that a utility that exists in
14 the street that you've got to live with?

15 MR. HICKOK: Well it --
16 transformer vaults are not easily relocated.
17 If the transformer -- it's the transformer
18 vault that -- I think it serves the building
19 --

20 MR. McCCLURE: Yes. It serves the
21 building.

22 MR. HICKOK: Okay. It does serve
23 -- it does serve the building. It's not part

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1 of the larger public utility. But it's the
2 location that -- that, for this building for
3 a whole set of technical reasons, is the -- is
4 the chosen location.

5 COMMISSIONER PARSONS: So there's
6 an existing vault there now and you're adding
7 to that?

8 MR. HICKOK: I'm unclear on that.
9 I don't know if there's an existing vault
10 there or not.

11 COMMISSIONER PARSONS: Because of
12 all the places to put this, it just seems
13 wrong, doesn't it? I mean, to achieve an
14 amenity here at the end of 2nd and M, across
15 from the park, it might not be a desirable
16 place to have people sitting at tables and
17 umbrellas. Oh. Here comes the expert.

18 MR. CAO: Hi. I'm Chuong Cao with
19 Hickok Cole. The -- the location of the
20 vaults are exactly where we coordinate and
21 that's actually where Pepco wanted it located.
22 So anyone's who worked with Pepco, then
23 actually then you know it's --

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1 COMMISSIONER PARSONS: I have. I
2 have. I know what you mean.

3 MR. CAO: Yes.

4 COMMISSIONER PARSONS: So the
5 trick is to get a surface on the vault that --

6 MR. CAO: What Craig is
7 describing, the southern part of the vault is
8 actually, they call it a transformer. And
9 that's going to be paved. But the areas north
10 and south are graded. So you have a bus stop
11 and then -- I'm sorry, bus vault, and then, on
12 top of that is a transformer vault. And that
13 should be covered too.

14 (Whereupon, a short break from
15 7:20 p.m. until 2:21 p.m.)

16 MR. CAO: My understanding is that
17 the north vault as well as the south vault can
18 be covered. But the bus vault needs to be
19 open.

20 COMMISSIONER PARSONS: I'm
21 confused. North vault and south vault?

22 MR. CAO: Right. You have three--
23 three vaults. Yes. The top, the north and

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1 the south are transformer vaults. And the
2 middle vault is the bus vault.

3 COMMISSIONER PARSONS: So the
4 middle one could be --

5 MR. CAO: The middle one, I
6 believe, needs to be open with the grate. And
7 the north and south needs to be covered, or
8 can be covered.

9 COMMISSIONER PARSONS: So the
10 pavement you show on the south vault could
11 possibly be used for the north vault?

12 MR. CAO: Correct. Right.

13 COMMISSIONER PARSONS: Well, that
14 would be better, wouldn't it? They nodded.

15 MR. HICKOK: It would -- it would
16 be better. And it's something that we can
17 easily look at and -- and confirm that it can
18 be covered. And if it can be covered, I mean,
19 we'll -- it think we can do that.

20 COMMISSIONER PARSONS: Well, that
21 would be preferable. Certainly, if CVS is
22 here, we wouldn't care. But I hope this Canal
23 Park Cafe is the result. I mean, we all do,

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1 right?

2 MR. HICKOK: We certainly do.

3 COMMISSIONER PARSONS: All right.
4 Thank you. And the -- excuse me, the stone
5 accent pavers that are out in the street, is
6 that something -- I assume this is public
7 space. The Department of Transportation is
8 okay with that?

9 MR. McCLURE: That is correct. It
10 is public space, and that special paving
11 occurs within the public parking zone, not
12 within the sidewalk zone.

13 COMMISSIONER PARSONS: So that
14 would need subsequent approvals from somebody
15 other than us?

16 MR. McCLURE: That is correct.

17 COMMISSIONER PARSONS: Okay. So
18 you haven't got those. It's a desire here?

19 MR. McCLURE: Well -- go ahead.

20 MR. QUINN: Well, normally what we
21 do when we have a plan in front of you is
22 that's what gets submitted to Public Space
23 Committee.

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1 COMMISSIONER PARSONS: Sure.

2 MR. QUINN: And normally they
3 approve. I mean, not always, but --

4 COMMISSIONER PARSONS: You know,
5 it's very unusual to see this kind of paving
6 pattern. You know, they usually -- we're
7 using London Pavers here and that's it. But
8 good luck.

9 MR. McCLURE: I would like to add
10 that -- that we have been working with DDOT
11 and the Anacostia Waterfront Corporation.

12 MR. QUINN: Those letters we filed
13 tonight.

14 MR. McCLURE: They -- they have
15 seen this design and we've made some
16 revisions, based on some early comments that
17 they had. And -- and I think that they're
18 very happy with what has been -- been done.

19 COMMISSIONER PARSONS: Well
20 assuming that you've got a letter from Uva
21 here, Uva Brandeis. Okay. Thank you.

22 CHAIRPERSON MITTEN: Commissioner
23 Jeffries?

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1 COMMISSIONER JEFFRIES: Just on
2 the same front, on page 8 of the Office of
3 Planning's report, it says that what was shown
4 November 17th, as it relates to paving was
5 somewhat plain. So what you submitted today
6 is a reflection of the change. Is that
7 correct?

8 MR. McCLURE: It's -- it's not a
9 reflection of, to my understanding, that --
10 that particular comment. What this is a
11 reflection of is the Anacostia Waterfront
12 design guidelines and standards for this area,
13 which are very specific. And also, responding
14 to comments by the Anacostia Waterfront
15 individuals, and also DDOT.

16 COMMISSIONER JEFFRIES: Okay. So
17 the Office of Planning's comments have not
18 been addressed? On page 8 of their 15-page
19 report.

20 MR. QUINN: I -- I think what we
21 have is -- we -- we --

22 COMMISSIONER JEFFRIES: I mean,
23 that's all right. Whether you've addressed it

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1 or not, I just --

2 MR. QUINN: Well, we think we've
3 addressed it by going through AWC and DDOT,
4 which really have the ultimate approval
5 process. And therefore, you -- if -- if OP
6 wanted something else, we've responded to AWC
7 and DDOT.

8 COMMISSIONER JEFFRIES: Okay.
9 Fair enough. The other question I had, and
10 this might be for Mr. Fenell, perhaps I don't
11 recall whether I asked the question about
12 retailers. So, have there been discussions
13 with certain retailers. Has anyone sort of
14 stepped up to the plate?

15 I know there's the pharmacist
16 across the park. But again, given that this,
17 you know, Canal Park is such an amenity, it
18 would be interesting to know the types of
19 retailers we're talking about.

20 MR. FENELL: Yes. Certainly our
21 aspiration is to get a restaurant at the
22 corner of 2nd and M, fronting out onto the
23 park. That's what we'd love to see. We have

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1 strong interest from a bank to go in. We have
2 strong interest from Subway and Five Guys who
3 happen to be downstairs in our existing
4 building.

5 COMMISSIONER JEFFRIES: Yes.
6 Right.

7 MR. FENELL: Who now want more
8 space and would love to entertain taking
9 additional space in the building. But, quite
10 frankly, we -- we really haven't been out to
11 the market to test the market to see the type
12 of retailers that are ready. Except that we
13 know, in general, there is a buzz about retail
14 in this area and we're excited that we can
15 offer a building of this design that can meet
16 their needs.

17 MS. HIGHTOWER: Yes. So a bank?
18 There's a bank?

19 MR. FENELL: There was a bank that
20 came in second at 1100 New Jersey Avenue.
21 They're patiently waiting and would love to
22 hear about an opportunity to go into this
23 building.

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1 COMMISSIONER JEFFRIES: I don't
2 think banks are part of the -- I don't think
3 they're part of this preferred retail uses.
4 We didn't have banks as part of that. Didn't
5 we have a list of --

6 CHAIRPERSON MITTEN: I don't know.

7 COMMISSIONER JEFFRIES: Yes.
8 Okay. Okay. Thank you.

9 CHAIRPERSON MITTEN: Okay. Anyone
10 else? Okay. Thank you, very much. Now we're
11 ready for the report by the Office of
12 Planning. Mr. Cochran?

13 MR. COCHRAN: Good evening, Madam
14 Chair and members of the Commission. This
15 application is consistent with the goals and
16 objectives for the area as outlined in the
17 Comprehensive Plan and in the previously
18 approved preliminary and consolidated PUD.

19 Additionally, the proposal
20 generally meets the goals and objectives of
21 the CG Overlay, their goals for retail space
22 to create an active and welcoming pedestrian
23 character along M Street. The revised design

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1 also responds to the concerns expressed by the
2 Zoning Commission and the Office of Planning
3 at set down.

4 However, we've heard your concerns
5 tonight about the design of the ground floor
6 in the corner and would be very pleased to
7 work with the Applicant on design revisions
8 prior to final approval of this.

9 Nevertheless, OP recommends that
10 the Commission approve this application
11 preliminarily tonight, contingent upon the
12 provision of a countersigned LSDBE application
13 before the final application, and whatever
14 kinds of supplemental information you may wish
15 on the ground floor and corner design.

16 Beyond this, OP would be pleased
17 to stand on the record or, of you wish, we
18 could highlight the concerns expressed at set
19 down and how the Applicant has responded to
20 them. And then, of course, we're ready to
21 answer any other questions you might have.

22 CHAIRPERSON MITTEN: I think the
23 Commission will ask the questions that are

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1 most meaningful to them, rather than have you
2 make a further report. And I appreciate the
3 offer, though. So questions from the
4 Commission for Mr. Cochran? Anyone have
5 questions? Anybody?

6 COMMISSIONER PARSONS: Well, let
7 me just ask Mr. Cochran, in your experience
8 with Pepco, once they've made a decision or a
9 determination as to where they think the
10 transformer vault is to occur, how much
11 mobility is there really? How much ability is
12 there to negotiate to move something like
13 that?

14 MR. COCHRAN: I haven't had
15 experience with Pepco on that in particular.
16 We did have some success in getting Pepco to
17 relocate some major transmission lines to a
18 sub-station in Eckington. However, once
19 they'd made one change, they were not willing
20 to make additional changes. But that's a much
21 bigger scale. I -- I don't know the answer to
22 this particular question.

23 COMMISSIONER PARSONS: All right.

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1 Thank you.

2 CHAIRPERSON MITTEN: Okay. If
3 there are no more questions for Mr. Cochran,
4 then I would just note as Mr. Quinn had noted
5 that we do have a report from DDOT as it
6 relates to the sidewalk design and a report
7 from the Anacostia Waterfront Corporation on
8 the record.

9 Is there anyone here from ANC 6D?
10 Okay. Anyone who'd like to testify in support
11 of the application? Anyone who'd like to
12 testify in opposition to the application?
13 Okay. Mr. Quinn?

14 MR. QUINN: I think I don't need
15 to say too much more. We believe that we meet
16 the test. We would like to point out first
17 that a bank is a preferred use.

18 CHAIRPERSON MITTEN: Oh, is it?

19 COMMISSIONER JEFFRIES: It is a
20 preferred use?

21 CHAIRPERSON MITTEN: What were we
22 thinking?

23 MR. QUINN: Yes. At any rate --

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1 COMMISSIONER JEFFRIES: Not a
2 bank?

3 MR. QUINN: Okay. We would like
4 to seek your preliminary approval. We
5 understand precisely what you've said in terms
6 of the design in the corner. We will submit
7 plans. We've made a list of about four
8 different points that you've made tonight,
9 including looking and being more specific on
10 the Pepco vault. I think we need to do that
11 again and to talk about that. And we would
12 submit plans to you on that.

13 CHAIRPERSON MITTEN: Okay. I just
14 want to huddle up with my colleagues for a
15 minute to see if we're ready to move forward
16 tonight.

17 (Whereupon, off the record from
18 7:30 p.m. until 7:31 p.m.)

19 CHAIRPERSON MITTEN: We think that
20 the issues that have been raised are fairly
21 serious. And we'd like to hold off on
22 preliminary action until we see the response
23 from the Applicant.

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1 So I just want to review the
2 things that we'd like to see. In response to
3 Mr. Jeffries question, he wanted to see a
4 rendering of the 2nd Street side of the
5 building.

6 MR. QUINN: Without trees.

7 CHAIRPERSON MITTEN: Without
8 trees. Yes. And he wanted to have some
9 perspective drawings showing how the ground
10 floor along that same side relates to the
11 park.

12 MR. QUINN: And specifically, as I
13 recall, the corner treatment.

14 CHAIRPERSON MITTEN: Yes. Yes.

15 COMMISSIONER JEFFRIES: But go
16 down the street.

17 MR. QUINN: Right. Right. Go
18 north. Right. Yes. Right.

19 CHAIRPERSON MITTEN: I'll leave it
20 to you as to how you'll respond to the
21 comments that you heard about the issue of
22 superior architecture.

23 We'll have the clarification of

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1 the First Source agreement, and then we'll, if
2 you could review the surfaces that can be
3 installed above the three different Pepco
4 vaults and how those would be installed, I
5 think that would be helpful.

6 Is there anything else? Anything
7 else? Anybody else? Last call. Okay. I
8 need a sense from you about timing. Since the
9 December meeting is Monday, we don't have to
10 worry about that.

11 MR. QUINN: We think we can submit
12 within two weeks.

13 CHAIRPERSON MITTEN: Okay.

14 MR. QUINN: And that would allow
15 us to be on the January agenda.

16 CHAIRPERSON MITTEN: Okay. The
17 very full January agenda. Ms. Schellin,
18 what's two weeks?

19 MS. SCHELLIN: 3:00 December 21st.

20 CHAIRPERSON MITTEN: Okay. All
21 right. Well, thank you all for your
22 participation this evening. And we look
23 forward to your responses. And we're

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1 adjourned.

2 MR. QUINN: May I just ask if
3 you'd like a proposed order?

4 CHAIRPERSON MITTEN: I'm sorry?

5 MR. QUINN: Would you like a
6 proposed order?

7 CHAIRPERSON MITTEN: Absolutely.

8 MR. QUINN: Thank you.

9 CHAIRPERSON MITTEN: And I'm sure
10 the Office of the Attorney General would like
11 a proposed order as well. Thanks for the
12 offer. We're adjourned.

13 (Whereupon, the hearing was
14 adjourned at approximately 7:33 p.m.)
15

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